

**Town of Kinderhook  
Planning Board Meeting  
3211 Church Street  
Valatie, NY 12184  
March 20, 2014**

Approved

**MINUTES**

The Meeting of the Town of Kinderhook Planning Board was held on Thursday, March 20, 2014, beginning at 7:05pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The meeting was called to order by the Chairwoman, Mary Keegan-Cavagnaro. The Roll was taken by the Secretary.

**A. Roll Call**

Present:

Mary Keegan-Cavagnaro, Chairwoman  
Andy Howard, Town Attorney  
Patrick Prendergast, Engineer  
Chris Simonsen  
Jake Samascott  
William Butcher  
Dale Berlin  
Daniel Weiller  
Guy Rivenburgh  
Jason Graham  
Nataly Dee, Secretary

Excused:

Peter Haemmerlein

Absent:

None

Also in attendance Ed Simonsen, Marcel St. Onge, Marcia Anderson, Peter Bujanow, Bob Novak.

**B. Correspondence**

1. Review of Minutes:

February 13, 2013 – Workshop  
February 20, 2013 – Meeting

Approval of the minutes will be held until next month pending corrections to the workshop minutes.

**C. Public Hearings**

1. 7:05pm - Dollar General: Site Plan Review – US Route 9, Valatie;

Mr. Timothy O'Brien, of Bohler Engineering addressed the Board. He began by addressing the matter of the shared drive with the self-storage facility to the rear of the property, and further noted that no updates or permits were being required by the Department of Transportation at this time. He briefly noted projected traffic trips per hour at peak times. Mr. O'Brien then reviewed some of the other specifications of the site. He noted that the septic system will be in to the rear of the building and the well in the front. Further, he noted the variances for the use of sliding glass doors and a reduction in the parking spaces requirements were approved by the Zoning Board of Appeals. Mr. O'Brien also noted that the plans had been adjusted to include shutters on the windows and a peaked roof. He addressed the

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proposed landscaping plans. He felt all concerns received from the Planning Board had been addressed. A letter from County Planning with comments was received (on file).

The notice as it appeared in the newspaper of record was read by the secretary (on file).

A motion to open the Public Hearing was made by Mr. Simonsen. Motion seconded by Mr. Weiller. All in favor. Motion carried; hearing opened.

Mr. Ed Simonsen addressed the board. He asked whether the letter from Mr. Alan Grout, owner of Golden Harvest, would be entered into the public record. He read the last paragraph of the letter, "People passing the farm comment on vehicle traffic congestion, tractor trailers ingressing and egressing Route 9, popularity of our Pick Your Own operation traffic, increasing success of Derek's Harvest Spirits Distillery customer base, and most significant the GHF Farm Market open all year. Any additional traffic congestion on Route 9 (and directly across from our south entrance) is antagonistic to our Right to Farm but more importantly, antagonistic to promoting the health, safety, and welfare of the community we proudly serve." (Complete letter on file.) Mr. Simonsen's concerns were primarily safety concerns. If those concerns were satisfied, he did not see anything wrong with the project. Mr. Simonsen was of the opinion that making left turns on Route 9 has become an increasingly great problem. Safety is supposed to be one of the Planning Board's major concerns. He suggested the Planning Board consider restricting left turn egress from the parcel in question. Secondly, he expressed concern about tractor trailers and the potential that they would back out of the site on to Route 9, which DOT would not allow.

There was no one else in the public with any comments.

A motion to close the Public Hearing was made by Mr. Simonsen. Motion seconded by Mr. Rivenburgh. All in favor. Motion carried; hearing closed.

Comment from heard from the Board. Mr. Berlin agreed that it is difficult to make turns onto Route 9, and thought the right turn only idea was interesting. Mr. Prendergast wasn't sure that restriction could be required by the board. Mr. Simonsen did not think it was an unreasonable request. He read from the County Planning letter regarding this matter. He requested to see the computer simulation of the truck turn around again. Mr. Rivenburgh noted that simulation is going to be consistent, while drivers are imperfect; mistakes will happen. Mr. O'Brien noted that the curbs along the turns are banked at an angle and are striped to allow for additional room. He noted the driveway is 36' wide.

Additional discussion ensued about the idea of right turn only from the exit of the site. It was the feeling of several members that that restriction, while it may be a good idea, could not be made of this applicant only. Additionally, such a restriction would impact future development. Traffic trip projections provided by the applicant were reviewed. The letter from County Planning and the email from the Department of transportation were reviewed. In response to the issue of "stacking", Mr. O'Brien stated that there was enough room for approximately four cars worth of stacking in the driveway and parking area. The process of requesting no left turn upon exit, if the board were so inclined, was discussed. The request could be made of the applicant; they could agree or not agree. Ultimately, DOT has already said that the ingress and egress to the site for this particular does not require any additional work. DOT has reserved the right to return at a later date and review the matter again if they see fit. Mr. Simonsen felt strongly

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that he would not want to approve a project that could potentially result in a traffic fatality; he would rather be cautious than create a situation like that. He noted comment #6 from the County Planning letter to support his concern. He wanted to make every effort that the board does its due diligence prior to signing off on the project.

Mr. Howard noted that during this application process the applicant has been heard from, there has been input from DOT, the internal traffic flow has been reviewed. He counselled the board that if they felt they needed more information they should ask for it.

Mr. Prendergast commented about the commercial septic system and that given its size it would not be inspected by County Department of Health, and would only be reviewed at the town level.

Additional discussion of the matter with note to the pros and cons and impact on future development ensued. It was held by many members that while they thought it may be a good idea, it could not be required of the current applicant and that it was more a general matter for further review by DOT.

The Short Environmental Assessment Form was reviewed by the attorney for the variance regarding the sliding glass doors.

Part II of the EAF (Short Form Environmental Assessment)

A. DOES ACTION EXCEED ANY TYPE 1 THRESHOLD IN 6 NYCRR, PART 617.4?

**Proposed answer is no.**

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.4?

**Proposed answer is no.**

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING:

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?

**Proposed answer is no. The applicant has submitted detailed plans and drawings relative to drainage, to erosion control, and has submitted the application to the requisite State authorities.**

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character?

**Proposed answer is no.**

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species?

**Proposed answer is no.**

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?

**Proposed answer is no.**

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action?

**Proposed answer is none.**

C6. Long term, short term, cumulative, or other effects not identified in C1-C5?

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**Proposed answer is none.**

C7. Other impacts (including changes in use of either quantity or type of energy)?

**Proposed answer is none.**

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

**Proposed answer is no.**

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

**Proposed answer is no.**

If the board was of a mind to agree with those findings, they could entertain a motion to issue a Negative Declaration under SEQR.

A motion of Negative Declaration was made by Mr. Berlin. Motion seconded by Mr. Rivenburgh.

**In Favor**

Ms. Keegan-Cavagnaro  
Mr. Butcher  
Mr. Rivenburgh  
Mr. Graham  
Mr. Berlin  
Mr. Samascott

**Opposed**

None

**Abstain**

Mr. Simonsen

Motion carried; declaration issued.

A motion of that the application was substantially complete and ready for approval based upon the following conditions: 1) submission of an acknowledgement letter of the filing of the Notice of Intent from the Department of Environmental Conservation; 2) submission of \$500 in escrow for the Town Engineer to conduct inspections of the septic system; 3) submission of the plans in conformity with the New York State Building Code was made by Mr. Berlin. Motion seconded by Mr. Rivenburgh.

**In Favor**

Ms. Keegan-Cavagnaro  
Mr. Butcher  
Mr. Rivenburgh  
Mr. Graham  
Mr. Berlin  
Mr. Samascott

**Opposed**

None

**Abstain**

Mr. Simonsen

Motion carried. Application conditionally approved.

2. 7:20pm - Robert Boll, Jr.: Site Plan Amendment - County Route 28, Valatie;

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Mr. Peter VanAlstyne, Land Surveyor, addressed the board. The applicant, Robert Boll, Jr., also addressed the board. This is a proposed site plan for a storage building to be constructed on the corner of Route 203 and Parker Hall Rd in the hamlet of Niverville. Mr. VanAlstyne noted the existing barn structure on the property. He addressed the reason the building was proposed to be sited in that location noting existing screening on the western property line, as well as the location of existing structure. Further, he noted the plans are still within the envelopes with dimensions of 42' x 70'. The proposed building would be a Morton Building construction. The Columbia County Highway Department has been consulted for approval of the curb cut which is shown on the current plan. There is an existing well and septic on the site which will not be altered as a result of the additional building. One utility line will be relocated to accommodate the new building.

Color renderings and elevation drawings of the proposed structure were also submitted by the applicant and were reviewed at this time. Mr. VanAlstyne addressed the amount of windows required for the amount of square footage of the proposed structure. Windows, overhead doors and a covered entrance were noted.

A motion to open the Public Hearing was made by Mr. Simonsen. Motion seconded by Mr. Berlin. All in favor. Motion carried; hearing opened.

Mr. Ed Simonsen addressed the board. He inquired about the roof pitch of the roof. Mr. Boll reported that the roof pitch on the proposed building matches many of the existing buildings in the area and is 6 on 12. Mr. Simonsen noted that the code calls for 8 on 12. Mr. Simonsen inquired about the siding material. It was reported that the siding material was proposed to be metal. Mr. Boll indicated that the siding would resemble board and batten. Mr. Simonsen thought the applicant should have been referred to the Zoning Board of Appeals for a variance for the roof pitch. Mr. Simonsen did not have an issue with the specific dimensions as such, but was more disturbed that project was not referred to the ZBA due to non-compliance with the code. Mr. VanAlstyne noted that the matter had been discussed by the board and it was felt that the board had discretion in these matters.

There were no additional comments from the public.

A motion to close the Public Hearing was made by Mr. Simonsen. Motion seconded by Mr. Butcher. All in favor. Motion carried; hearing closed.

The County Planning comment letter was submitted and reviewed (on file).

Part II: Impact Assessment of the EAF (Short Form Environmental Assessment) was reviewed by the Attorney.

Part 2-Impact Assessment.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact may occur.*

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2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact may occur.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact may occur.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no or small impact may occur.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact may occur.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact may occur.*
7. Will the proposed action impact existing:
  - a. public / private water supplies? *Proposed answer is no or small impact may occur.*
  - b. public / private wastewater treatment? *Proposed answer is no or small impact may occur.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact may occur.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact may occur.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact may occur.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact may occur.*

A motion of Negative Declaration was made by Mr. Berlin. Motion seconded by Mr. Rivenburgh.

**In Favor**

Ms. Keegan-Cavagnaro  
Mr. Butcher  
Mr. Rivenburgh  
Mr. Graham  
Mr. Berlin  
Mr. Samascott

**Opposed**

None

**Abstain**

Mr. Simonsen

Motion carried; declaration issued.

Mr. Butcher addressed the matter of the process by which a project is referred to the ZBA. He wanted to clarify that setting a date for the Public Hearing somehow equated to some kind of approval of what would otherwise be a non-conforming roof pitch. He did not think that was necessarily the case. Mr. Howard agreed and elaborated that the board can call the Public Hearing, make a determination on the application, but any discussion of the matter prior to making a formal decision does not constitute a determination. The SEQR process can be completed and then at that time a decision could be made a referral to the ZBA.

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Mr. Berlin cited section 250-30 of the Code referring to design standards in relation keeping with in the architecture of the town. Based on that section and given the other structures in the neighborhood, he was of the opinion that the matter of the roof pitch could be waived.

Mr. Simonsen was of the opinion that if the code listed ranges of acceptable roof pitches rather than specific dimensions he could see having some discretion in the matter; but, as the code does not make such allowances, he is not in favor.

Ms. Keegan-Cavagnaro asked the attorney for his interpretation.

Mr. Howard added that the code talks about hip roofs, gable roofs, gambled roofs; it talks about ranges of pitches; and it talks about the mean acceptable. It doesn't use the word required; it says acceptable. Has the board traditionally in certain commercial settings and otherwise where you see a wide divergence with those recommended standards sent it to the ZBA? The answer is yes. The board also reviewed applications from the town when they built the Town Garage, notwithstanding the fact that they didn't have to come. But they did and it was approved. The Niverville Firehouse was also approved without referral. If the board feels that it should go to the ZBA, you could certainly do that. If you felt that based upon the type of use that is being engaged here, and some of the reasons previously stated, you could approve it without referral, you could opt to do that as well.

A motion to advance project to ZBA was made by Mr. Simonsen. Motion seconded by Mr. Butcher

**In Favor**

Mr. Simonsen  
Mr. Butcher

**Opposed**

Ms. Keegan-Cavagnaro  
Mr. Rivenburgh  
Mr. Graham  
Mr. Berlin  
Mr. Samascott

**Abstain**

None

Motion does not carry.

A motion that the application was substantially complete and ready for approval was made by Mr. Rivenburgh. Motion seconded by Mr. Graham.

**In Favor**

Ms. Keegan-Cavagnaro  
Mr. Rivenburgh  
Mr. Graham  
Mr. Berlin  
Mr. Samascott

**Opposed**

Mr. Butcher

**Abstain**

Mr. Simonsen

Motion carried. Application approved.

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3. 7:30pm - Michael & Pamela Bleau: Minor Subdivision/Lot Line Adjustment (with lands of Deibel & Anderson) – McCagg Road, Valatie

Mr. VanAlstyne addressed the board and reviewed the project for the board and public. He stated that this represents a classic lot line adjustment. The lots are located on McCagg Road and the corner of Pinto Ranch Road in Kinderhook. Both lots are pre-existing, non-conforming lots. After the adjustment the Bleau property will be 2.1 acres, the Anderson/Deibel property will be 1.27 acres. Wells and septic are preexisting and are noted on the plans.

A motion to open the Public Hearing was made by Mr. Butcher. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing opened.

There were no comments from the public.

A motion to close the Public Hearing was made by Mr. Butcher. Motion seconded by Mr. Simonsen. All in favor. Motion carried; hearing closed.

Part II: Impact Assessment of the EAF (Short Form Environmental Assessment) was reviewed by the Attorney. Proposed answers to the questions listed below were all negative.

Part 2-Impact Assessment.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact may occur.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact may occur.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact may occur.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no or small impact may occur.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact may occur.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact may occur.*
7. Will the proposed action impact existing:
  - a. public / private water supplies? *Proposed answer is no or small impact may occur.*
  - b. public / private wastewater treatment? *Proposed answer is no or small impact may occur.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact may occur.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact may occur.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact may occur.*



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11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact may occur.*

A motion of Negative Declaration was made by Mr. Simonsen. Motion seconded by Mr. Butcher All in favor; none opposed. Motion carried; declaration issued.

A motion of that the application was substantially complete and ready for approval was made by Mr. Berlin. Motion seconded by Mr. Simonsen. All In favor; none opposed. Motion carried; application approved.

A fee of \$200 was submitted by the applicant.

**D. Old Business**

1. Henry Kazer: Major Subdivision - County Route 28, Valatie;

Mr. VanAlstyne provided a brief update on the status of this project, noting that the project will be ready for presentation before the board next month.

2. Jeff Pfeffer: Jets Auto Body – Former Toyota of Kinderhook, Route 9, Kinderhook;

Mr. Pfeffer and Mr. VanAlstyne addressed the board. Mr. VanAlstyne stated that Mr. Pfeffer is proposing to purchase the property from Mr. Habek and operate an automotive repair shop. Previously approved plans which represent approval of the 6-bay addition, circa 1999 were distributed. Current updated plans were also distributed. Only a few revisions were made. Site calculations in regard to lot coverage, parking spaces, set-backs, and use of the building are shown on the plans. The permitted use on the site is automotive repair and that is what the applicant proposes continued use. Permission to represent from the current owner was submitted.

The sign will be relocated so that it is in greater conformity with the code. A fence has been added to the rear to screen damaged cars from view. The house located to the north will be included in the sale. Parking was addressed. Lighting was addressed. The site should be reviewed by Department of Transportation.

Mr. Simonsen noted two items from the code dealing with automotive repair: screening and work taking place in a completely enclosed building. Further, he asked for clarification on section 250-29-12 of the code regarding Special Use Permits. The matter requires further review.

Mr. Prendergast recommended an air permit from Department of Environmental Conservation for a stack.

A motion to refer the project to County Planning was made by Mr. Simonsen. Motion seconded by Mr. Rivenburgh. All in favor; none opposed. Motion carried.

Discussion of structural repairs to more than 50% of the structure ensued. Specific areas of improvements were reviewed. The matter requires further review.

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Items to address: investigate air permit, DOT ingress and egress, code sections regarding improvements and Special Use Permit.

A motion was made to set a Public Hearing for Thursday, April 17, 2014, at 7:05pm was made by Mr. Berlin. Motion seconded by Mr. Butcher. All in favor; none opposed. Motion carried; hearing set.

3. Jay Ronald Wills: Zoning Change – US Route 9 and Cortland Drive, Valatie;

Mr. Wills addressed the board. Mr. Howard informed the board that he had not completed his review of the matter, but has started developing a provision for the board's consideration in providing a recommendation to the Town Board. He did provide the board with a review of the issues with special attention to permitted home occupation uses in a qualified structure, those existing prior to zoning. One of the questions pertains to the maximum permissible size of the structure. Further, he noted that the board may recommend that the whole home occupation section of the code undergo a review which would address scope, size and scale of permissible occupations. The recommendation could include this matter in conjunction with an overall review.

Ms. Keegan-Cavagnaro thanked Mr. Wills for coming before the once again but that further review of the matter was necessary at this time.

Mr. Berlin inquired as to whether it was possible to determine how many properties might be affected by this matter. An inquiry will be made with the Assessor.

4. Marc Cebula: Lot Line Adjustment – County Route 28B, Niverville

No one was in attendance to represent this application.

5. Tal Rappleyea: Minor Subdivision – Albany Ave and Fordham Rd, Kinderhook

No one was in attendance to represent this application.

6. Glenn Herbert: Minor Subdivision – Mile Hill Rd and Meiske Rd, Kinderhook

No one was in attendance to represent this application.

**E. New Business**

None.

**F. ZBA Opinions**

None.

**G. Liaisons**

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1. Village Planning Boards: Nothing to report.
2. Town Board: Liaison excused.
3. NYSEG Project: Nothing new to report.

**H. Other**

1. Public Comment

Mr. Ed Simonsen addressed the board. He reviewed some of the projects that he oversaw during his tenure on the board. He conceded that is not an easy position to be in and entreated the members to educate themselves about the code. Shall may and must. He wanted to remind the board that the Town just underwent a lengthy process to update the Comprehensive Plan which was just recently adopted and approved by the Town Board. To his knowledge, there was no discussion at any of the Public Hearings with respect to expanding the use of office space in the residential areas. What he has seen is one applicant wanting to change the zoning of one parcel on Route 9. Other owners of that property have come before the board previously. It is an extremely difficult lot to be able to use; there are all kinds of constraints. He recalled a local resident who appealed to the board and to DOT regarding the dangers of exiting from that road onto Route 9. Anything you do to add to that traffic coming out of those roads, whether it be small businesses or anything that will generate more traffic, will only make it worse and exacerbate the problem. He cautioned the board to be careful noting that R2 is a big zone with lots of properties. Further, Mr. Simonsen noted that most of the code book hasn't changed in 40 years. The changes that have been made, with respect to the past 10-12 years, have to do with zoning districts, the density in those zoning districts, and in some cases the standards for commercial buildings. In the totality of the code book it's minor; and it has stood for all these years. Most importantly, it has protected the majority of the residents of this town. Mr. Simonsen was of the opinion that that is what you want; that's what he wants; and he believes that it what his neighbors want. He added that anything that diminishes that for anyone diminishes it for all of us.

Mrs. Marcia Anderson addressed the board and inquired as to whether Mr. Will's has made an application for use that has been denied. And if so, why has it not been referred to the Zoning Board of Appeals. She inquired why this board was making a special consideration based on what the Town Board has asked, to modify all of the zoning code to meet his property. It appeared to her that the board was considering a big R2 change which would affect a lot of properties to accommodate one person. She held that this appeared to be a way of getting around spot zoning by making a universal change. She noted that the property has no water and no septic, it is a marginal property.

Mr. Simonsen suggested that what would be best for all is for the town to purchase the parcel. If the neighbor wished to purchase the parcel that would be fine. The remainder of the parcel would be deeded to DOT.

A motion to adjourn was made by Mr. Berlin. Motion seconded by Mr. Graham. All in favor; none opposed. Motion carried; meeting adjourned at 9:22pm.

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Respectfully submitted,

Nataly Dee, Secretary